

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAJI KITCHEN,

Plaintiff,

v.

C. BROUSSARD, *et al.*,

Defendants.

No. 1:20-cv-0155 NONE JLT (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO DISMISS THE
COMPLAINT

(Doc. Nos. 1, 10)

Plaintiff Raji Kitchen, a state prisoner proceeding *pro se*, brought this civil rights action under 42 U.S.C. § 1983 seeking damages and declaratory relief as a result of a decision made by defendants—officials at the California City Correctional Facility—to deny plaintiff’s request for an early release date. (Doc. No. 1 at 3–9; *see also id.*, Ex. F.) Plaintiff claims that defendants miscalculated the credits he had earned entitling him to an early release in violation of California law and regulations, which he asserts in turn also violated his Eighth and Fourteenth Amendment rights. (*Id.* at 3–9.) This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

The assigned magistrate judge screened plaintiff’s complaint pursuant to 28 U.S.C.A. § 1915A, and found that plaintiff failed to state a cognizable claim for relief and that granting further leave to amend would be futile. (Doc. No. 10 at 7–8.) Accordingly, the magistrate judge recommended that the complaint be dismissed with prejudice. (*Id.*) Plaintiff has filed objections

1 to the pending findings and recommendations. (Doc. No. 11.)

2 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the undersigned has
 3 conducted a *de novo* reviewed of this case. The undersigned finds the pending findings and
 4 recommendations to be supported by the record and proper analysis and plaintiff's objections to
 5 be unpersuasive. In his objections, plaintiff raises various arguments that have been addressed by
 6 the magistrate judge in the findings and recommendations. (Doc. No. 11 at 4–8; *see* Doc. No. 10
 7 at 5–7.) The court need not recap all of the magistrate judge's analyses of plaintiff's arguments,
 8 but plaintiff's Fourteenth Amendment claim deserves attention since plaintiff argues the issue
 9 extensively in his objections. As the Supreme Court has held, "States are under no duty to offer
 10 parole to their prisoners," but when "a State creates a liberty interest" by offering parole, the due
 11 process right plaintiff entitled to is nonetheless "minimal." *Swarthout v. Cooke*, 562 U.S. 216,
 12 220 (2011). That is, plaintiff is entitled to "an opportunity to be heard" and "a statement of the
 13 reasons why parole was denied," but no more. *Id.* Here, plaintiff's allegations and exhibits show
 14 that after plaintiff's request for release on parole was initially denied, plaintiff appealed that
 15 denial several times; each time, defendants issued a written explanation of their decision
 16 affirming the initial denial of parole. (Doc. No. 1 at 4–8, Exs. B–F.) Thus, plaintiff's Fourteenth
 17 Amendment rights were not violated with respect to the denial of parole. It follows that the
 18 pending findings and recommendations should be adopted.

19 Accordingly, the court ORDERS as follows:

- 20 1. The findings and recommendations issued on November 9, 2020 (Doc. No. 10) are
 21 ADOPTED in full;
- 22 2. The complaint (Doc. No. 1) is DISMISSED with prejudice; and
- 23 3. The Clerk of Court is DIRECTED to assign a district judge to this case for the purpose of
 24 closing the case, then to enter judgment and to close the case.

25 IT IS SO ORDERED.

26 Dated: March 1, 2021

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 28 UNITED STATES DISTRICT JUDGE